

Docket No.:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP:

SERIAL NO:

EXAMINER:

FILED:

FOR:

DECLARATION UNDER 37 C.F.R. § 1.132

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

Sir:

Now comes Dr. Michael Kröll who deposes and states that:

1. I am a graduate of University of Essen, Germany and received my Ph. D. degree in the year 2000.
2. I have been employed by Evonik Degussa for 4 years as a Manager in the field of Nanomaterials.
3. The following experiments were carried out by me or under my direct supervision and control.

Transparency was measured for zinc oxide powders obtained in Example 3 (according to the present invention) and Example 5 (Comparative Example). Importantly, Example 3 contains aggregates of zinc oxide having the required forms in the required amounts of the present invention, while Example 5 contains the same required forms of aggregates, but the amounts of ellipsoidal, linear and branched aggregates fall outside the required limits of the present invention. The transparency data was normalized to provide approximately equivalent transparency at about 380 nm, and the remaining data plotted against wavelength. As shown in the attached graph, the zinc oxide of the present invention from Example 3 (solid line) has better extinction as the wavelength approaches the visible range. This shows that the zinc oxides of the present invention would be more suitable for use in sun protection compositions,

compared to zinc oxides falling outside the requirements of the present invention (such as Example 5, dashed line).

4. The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

5. Further deponent saith not.

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(OSMMN 05/06)



Signature

10/23/07

Date